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Ct
No24
AGM

09.06
2023

**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 5137 of 2022

**Bikramjit Das & Anr.
Vs
The State of West Bengal & Ors.**

**Mr. Saunak Bhattacharya
Mr. Chandra Nath Sarkar
Mr. Pankaj Halder
Mr. Sanatan Panja**

... for the petitioners.

**Mr. Rajarshi Basu
Mr. Samir Kumar Ghosh ... For the State.**

Ms. Koyeli Bhattacharya ... For the K.M.C.

The petitioners pray for correction of the mutation in respect of the premises No. 4/2 and 5, Uma Das Lane, Kolkata- 700 016.

The petitioners claim that they are the legal heirs of the recorded owner of the subject premises.

The Corporation erroneously recorded the name of the private respondent as owner of the subject premises. The petitioners filed objection before the Corporation and alleges that the same has not been disposed of till date.

None appears on behalf of the private respondent.

The postal envelope address to the private respondent has come back unserved with the postal endorsement 'Insufficient Address'.

The affidavit-of-service along with the postal envelope is taken on record.

The writ petition which was sought to be served is returned to the learned advocate appearing for the petitioners.

Learned advocate representing the KMC submits, upon instruction that, the mutation in question was effected on the basis of the documents produced before the respondent authority long back in 1991.

Be that as it may, as an objection has been raised by the petitioners and the same is pending consideration before the respondent authority for a considerable period of time, accordingly, without going into the merits of the claim of the petitioners, the instant writ petition is disposed of by directing the Assessor Collector (South), KMC to consider and dispose of the representation filed by the petitioners in March 2022 in accordance with law after giving reasonable opportunity of hearing to all the necessary parties and pass a reasoned order in the matter.

Final order shall be passed at the earliest but positively within a period of four months from the date of communication of this order.

It is made clear that this Court has not entered into the merits of the claim of the petitioners and all points are left open to be decided at the time of consideration of representation of the petitioners.

It goes without saying that mutation is only with regard to identifying the person primarily liable to pay tax and the recording of the Corporation in no way decides

the ownership of the parties. The ownership of the parties can be decided relying upon the title deed(s).

The aforesaid respondent is restrained from entering into and deciding the ownership of the property. The said respondent is also restrained from entering into or deciding any disputed questions relating to right, title and interest of the subject property.

As regards declaration of ownership of the property in question, it will be open for the parties to approach the competent civil court for remedy.

Leave is granted to the learned advocate for the petitioners to correct the description of the respondent no. 5 in the cause title of the writ petition.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)